

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Case No. 09-36439-PSH
SYSIX TECHNOLOGIES, LLC,) Chapter 7
Debtor.) Hon. Pamela S. Hollis
) Hearing Date: November 3, 2011
) Hearing Time: 10:00 a.m.

**COVER SHEET FOR SECOND AND FINAL APPLICATION OF
SEYFARTH SHAW LLP FOR COMPENSATION AND REIMBURSEMENT
OF EXPENSES AS COUNSEL TO CHAPTER 11 TRUSTEE GUS A. PALOIAN
FOR THE PERIOD OF MARCH 1, 2010 THROUGH MARCH 31, 2010**

Name of Applicant: Seyfarth Shaw LLP

Authorized to Provide Professional Services to: Chapter 11 Trustee Gus A. Paloian

Date of Appointment: November 12, 2009, retroactive to October 8, 2009

Period for which Compensation and Reimbursement is Sought: March 1, 2010 through March 31, 2010

Amount of Interim Compensation Sought: \$18,030.50

Amount of Interim Expense Reimbursement Sought: \$1,725.65

This is an: X Final Interim Application.

Prior Applications:

<u>Filed Date</u>	<u>Fees/Expenses Requested</u>	<u>Fees/Expenses Allowed</u>	<u>Fees/Expense Paid</u>
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1st Application¹

4/8/10	\$146,887.00	\$136,859.50	\$136,859.50
[Dkt. No. 74]	\$1,455.18	\$1,353.14	\$1,353.14

Dated: October 12, 2011

Respectfully submitted,

SEYFARTH SHAW, LLP, as counsel to

GUS A. PALOIAN, not individually or personally, but solely in his capacity as the former Chapter 11 Trustee of the Debtor's Estate,

By: /s/ James B. Sowka

Gus A. Paloian (06188186)

James B. Sowka (6291998)

SEYFARTH SHAW LLP

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*Counsel to Former Chapter 11 Trustee
Gus A. Paloian*

¹ In the caption and at various other points throughout the 1st Application, Seyfarth inadvertently referred to itself as counsel to the Chapter 7 Trustee and requested that compensation be awarded to it in said capacity. The Order entered by the Court on April 29, 2010 (the "Order") granting allowance of compensation and expense reimbursement as requested in the 1st Application does not clearly reflect that the allowance of fees and expense reimbursement was granted on account of services rendered and expenses incurred on behalf of the Chapter 11 Trustee. By virtue of this reference, Seyfarth desires to correct the record to properly change all references in the 1st Application and the Order from "counsel to the chapter 7 trustee" to "counsel to the chapter 11 trustee" and to properly reflect the intent of Seyfarth and the Court.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Case No. 09-36439-PSH
) Chapter 7
SYSIX TECHNOLOGIES, LLC,)
) Hon. Pamela S. Hollis
Debtor.)
) Hearing Date: November 3, 2011
) Hearing Time: 10:00 a.m.

**NOTICE OF SECOND AND FINAL APPLICATION FOR COMPENSATION AND
EXPENSE REIMBURSEMENT OF SEYFARTH SHAW LLP AS COUNSEL TO
FORMER CHAPTER 11 TRUSTEE AND HEARING**

TO: PARTIES ON ATTACHED GENERAL SERVICE LIST

PLEASE TAKE NOTICE that on Thursday, November 3, 2011, Seyfarth Shaw LLP (the “Applicant”) filed its **Second and Final Application for Compensation and Reimbursement of Expenses as Counsel to Former Chapter 11 Trustee Gus A. Paloian for the Period of March 1, 2010 through March 31, 2010** (the “Application”) with the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division (the “Bankruptcy Court”). In the Application, Applicant seeks final compensation in the amount of \$18,030.50 and final reimbursement of expenses in the amount of \$1,725.65. In addition, Applicant requests that all amounts previously awarded and paid as interim compensation and expense reimbursement shall be deemed final. The Application is being served contemporaneously with this Notice upon each entity listed on the attached Special Service List and upon those entities receiving notices in the above-captioned case pursuant to the Bankruptcy Court’s CM/ECF system. All other entities may obtain copies of the Application, at no charge, upon request to: Ms. Jennifer M. McManus, Seyfarth Shaw LLP, 131 South Dearborn Street, Suite 2400, Chicago, Illinois 60603-5577; jmcmanus@seyfarth.com.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Application will be held before the Honorable Pamela S. Hollis, United States Bankruptcy Judge for the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, in the courtroom normally occupied by Her Honor, Courtroom 644, located at 219 South Dearborn Street, Chicago, Illinois 60604, on **Thursday, November 3, 2011, at 10:00 a.m.**, or as soon thereafter as the undersigned counsel may be heard.

Dated: October 12, 2011

Respectfully submitted,

SEYFARTH SHAW, LLP as counsel to
GUS A. PALOIAN, not individually or
personally, but solely in his capacity as the
former Chapter 11 Trustee of the Debtor's
Estate,

By: s/ James B. Sowka

Gus A. Paloian (06188186)

James B. Sowka (6291998)

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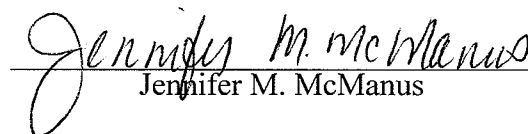
*Counsel to Former Chapter 11 Trustee
Gus A. Paloian*

CERTIFICATE OF SERVICE

The undersigned non-attorney certifies that on this 12th day of October, 2011, pursuant to Section II, B, 4 of the Administrative Procedures for the Case Management/Electronic Case Filing System and Fed.R.Civ.P. 5(a), she caused a copy of the attached:

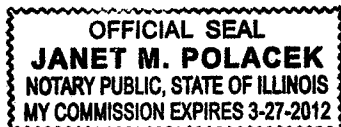
1. **Notice of Second and Final Application for Compensation and Expense Reimbursement and Hearing and Second and Final Application for Compensation and Reimbursement of Expenses of Seyfarth Shaw LLP as Counsel to Former Chapter 11 Trustee Gus A. Paloian** to be served (1) electronically on those entities who receive notice through the ECF system and who are listed on the attached Service List, and (2) and upon each of the parties identified on the attached Special Service List by causing the same to be deposited into the United States Mail chute located at 131 South Dearborn Street, Chicago, Illinois 60603, in properly-addressed envelopes with sufficient first-class postage prepaid; and

2. **Notice of Second and Final Interim Application for Compensation and Expense Reimbursement and Hearing** to be served (1) electronically on those entities who receive notice through the ECF system and who are listed on the attached Service List, and (2) upon each of the parties identified on the attached General Service List by causing the same to be deposited into the United States Mail chute located at 131 South Dearborn Street, Chicago, Illinois 60603, in properly-addressed envelopes with sufficient first-class postage prepaid.


Jennifer M. McManus

Subscribed and Sworn to before
me this 12th day of October, 2011.


Notary Public



SYSIX TECHNOLOGIES, LLC
Case No. 09-36439

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P.O. Box 3566
Little Rock, AR 72203-3566

State of New Jersey
Department of Treasury
Division of Taxation
P.O. Box 245
Trenton, NJ 08695

The Travelers Indemnity Company and Affiliates
c/o RMS Bankruptcy Services
P.O.Box 5126
Timonium, MD 21094

Tri-Technical Service
675-P Tollgate Road
Elgin, IL 60123

Uline
2200 S. Lakeside Drive
Waukegan, IL 60085

Unisys Corporation
99865 Collection Center Drive
Chicago, IL 60696

United Van Lines, LLC
22304 Network Place
Chicago, IL 60673-1223

University of Bridgeport
Library Administration
126 Park Avenue
Bridgeport, CT 06604

U.S. Department of Commerce
Economics and Statistics Administration
U.S. Census Bureau
Jeffersonville, IN 47132-0001

Russell Vitrano Jr.
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Buffalo Grove, IL 60089-4036

U.S. Department of Labor, EBSA for Sysix
Technologies, 401k Profit Sharing Plan
200 West Adams Street, Suite 1600
Chicago, IL 60606

Viztek, LLC
6491 Powers Avenue
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Taxpayer Services Division
210 North 1950 W
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Madison, WI 53708-8901

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9201 N. Central Expressway
Dallas, TX 75231

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Case No. 09-36439-PSH
)	Chapter 7
SYSIX TECHNOLOGIES, LLC,)	
)	Hon. Pamela S. Hollis
Debtor.)	
)	Hearing Date: November 3, 2011
)	Hearing Time: 10:00 a.m.

**SECOND AND FINAL APPLICATION OF SEYFARTH SHAW LLP FOR
COMPENSATION AND REIMBURSEMENT OF EXPENSES AS
COUNSEL TO FORMER CHAPTER 11 TRUSTEE GUS A. PALOIAN FOR THE
PERIOD FROM MARCH 1, 2010 THROUGH MARCH 31, 2010**

Pursuant to Sections 105(a) and 330 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330, *as amended* (the “Bankruptcy Code”), Seyfarth Shaw LLP (“Seyfarth”), as counsel to Gus A. Paloian, not individually or personally, but solely in his capacity as the former Chapter 11 trustee (the “Trustee”) of the bankruptcy estate (the “Estate”) of the above-captioned debtor (the “Debtor”), hereby submits its Second and Final Application for Compensation and Reimbursement of Expenses (the “Application”) for legal services performed, and expenses incurred, during the period of March 1, 2010 through March 31, 2010 (the “Application Period”). In support of this Application, Seyfarth respectfully represents, as follows:

I. INTRODUCTION

1. Seyfarth makes this Application pursuant to: (i) Sections 105(a) and 330 of the Bankruptcy Code; (ii) Rule 2016 of the Federal Rules of Bankruptcy Procedure (singularly, a “Rule”; collectively, the “Rules”); (iii) certain applicable provisions of the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, adopted by the Office of the United States Trustee; (iv) Rule 5082-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Northern District of

Illinois (the “Court”); (v) that certain Order of the Court entered in the above-captioned case (the “Case”) on November 12, 2009, authorizing Seyfarth’s retention as counsel to the Trustee retroactive to October 8, 2009 (the “Retention Order”); and (vi) other applicable case law.

2. In making this Application, Seyfarth respectfully seeks an Order of this Court awarding and directing payment from the Estate of: (i) final allowance of compensation in the amount of \$18,030.50 for professional services rendered by Seyfarth on behalf of the Trustee during the Application Period; and (ii) final reimbursement of actual and necessary expenses in the amount of \$1,725.65 incurred by Seyfarth in rendering such professional services to the Trustee in the Case. In addition, Seyfarth requests that all amounts previously awarded and paid to it in its capacity as counsel to the Trustee be deemed final.

II. JURISDICTION

3. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. This matter is before the Court pursuant to 28 U.S.C. § 157 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois. Venue of this Case and this Application is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. Consideration of this Application is a core proceeding pursuant to 28 U.S.C. § 157(b)(1) and (b)(2)(A) and/or (O).

III. BACKGROUND

4. On September 30, 2009, an involuntary petition for relief was filed against the Debtor under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101 through 1330, *as amended* (the “Case”).

5. On October 8, 2009, the Bankruptcy Court entered an order for relief under Chapter 11 of the Bankruptcy Code and an order appointing a chapter 11 trustee. On October 8, 2009, the Bankruptcy Court entered an order granting the U.S. Trustee’s Motion to Appoint

Gus A. Paloian as chapter 11 trustee in the Case. On November 12, 2009, the Bankruptcy Court entered an order granting the Trustee's Application to Retain Seyfarth Shaw as counsel for Trustee retroactive to October 8, 2009.

6. On April 1, 2010, the Bankruptcy Court entered an order converting the Case from a Chapter 11 to a case under Chapter 7 of the Bankruptcy Code.

7. Gus A. Paloian was appointed as the Chapter 7 Trustee on April 1, 2010.

8. The fees and expenses sought herein for which Seyfarth requests allowance of compensation and expense reimbursement are for services rendered and expenses incurred to the Trustee during the period that the Case was pending under Chapter 11 of the Bankruptcy Code.

9. In accordance with Section 504(b)(1) of the Bankruptcy Code and Rule 2016, Seyfarth has received no promises for payment for services rendered or to be rendered in any capacity whatsoever in connection with the Case, other than specifically provided for in the Seyfarth Retention Order and as otherwise set forth below. Additionally, other than as permitted by Section 504(b)(1) of the Bankruptcy Code and Rule 2016(a), no agreement or understanding exists between Seyfarth and any other entity for a division of compensation and reimbursement received or to be received for services rendered in or in connection with the Case.

IV. SUMMARY OF SERVICES RENDERED, AND EXPENSES INCURRED, BY SEYFARTH

A. Overview and Prior Applications for Compensation and Expense Reimbursement

10. This Application is the second and final application for compensation and expense reimbursement that Seyfarth has filed in this Case on account of services rendered and expenses incurred as counsel to the Trustee.

11. On April 8, 2010, Seyfarth filed its first interim application for compensation and expense reimbursement as counsel to the Trustee [*see* Dkt. No. 74] (the “First Application”) in which Seyfarth sought interim compensation in the amount of \$146,887.00 and expense reimbursement in the amount of \$1,455.18 for the period October 8, 2009 through February 26, 2010. On April 29, 2011, the Court entered an order awarding Seyfarth interim compensation in the amount of \$136,859.50 and expense reimbursement in the amount of \$1,353.14 [*see* Dkt. No. 82].

12. During the Application Period, Seyfarth has: (i) provided legal services to the Trustee in the amount of \$18,030.50(the “Fees”), and (ii) advanced costs in the amount of \$1,725.65 (the “Expenses”) in connection with the legal services that it has provided to the Trustee.

13. The following table consists of a breakdown of the amount of Fees incurred by each Seyfarth professional, including each such professional’s: (i) title, (ii) hourly rate, (iii) total hours expended in providing legal services in the Case, and (iv) the value attributable to such legal services:

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
Edward W. Bergmann	Partner	\$575.00	0.20	\$115.00
Gus A. Paloian	Partner	\$555.00	8.10	\$4,495.50
Jason Priebe	Of Counsel	\$410.00	1.20	\$492.00
James B. Sowka	Sr. Associate	\$325.00	8.50	\$2,762.50
Richard Lutkus	Associate	\$305.00	9.20	\$2,806.00
Benjamin Gehrt	Former Associate	\$300.00	1.10	\$330.00
M. Ryan Pinkston	Associate	\$295.00	5.10	\$1,504.50
Jennifer M. McManus	Paralegal	\$235.00	17.50	\$4,112.50

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
Nina Bouchard	Former Paralegal	\$125.00	11.30	\$1,412.50
TOTAL:			62.20	\$18,030.50

14. Biographies for the attorneys¹ listed above who performed the bulk of the services in this matter during the Application Period, describing their qualifications and areas of expertise, were included within Exhibit 1 of the First Application.

15. During the Application Period, Seyfarth made every reasonable effort to have services that it rendered to the Trustee performed by those qualified professionals charging the lowest hourly rates consistent with the level of service, experience, and efficiency required of a given task.

16. All of the compensation for which Seyfarth requests allowance and payment in this Application relate to the performance of services, as requested by the Trustee, during the Application Period.

17. Seyfarth respectfully submits that its services rendered to the Trustee during the Application Period have, in all respects, been reasonable, necessary, and beneficial to the Estate, as further discussed herein.

B. Time Records

18. Seyfarth maintains written records of the time expended by its professionals. These time records are maintained: (i) contemporaneously with the rendition of services by each Seyfarth professional, and (ii) separately from those of the Trustee, in accordance with established procedures within this District.

¹ Benjamin Gehrt is no longer employed at Seyfarth.

19. Such records for the Case, copies of which are grouped and attached hereto as **Exhibit 1** and which are incorporated herein by reference, set forth in detail: (i) the services which Seyfarth rendered on behalf of the Trustee, (ii) the dates upon which such services were rendered, (iii) the amount of time spent on the services in one-tenth of one hour increments, and (iv) the identity of each Seyfarth professional who performed such services.

C. Breakdown of Fees by Category of Services Rendered

20. For the Court's convenience, Seyfarth has categorized its services to the Trustee during the Application Period into eight (8) categories, as follows: (i) Case Administration; (ii) Investigation and Prosecution of Claims; (iii) Claims Administration and Analysis; (iv) Creditor Inquiries and Communications; (v) General Labor Matters; (vi) Investigation of Estate Claims/Adversary Proceedings/Litigation; (vii) Probate Matters; and (viii) Fee Applications.

CASE ADMINISTRATION (5.60 HOURS VALUED AT \$1,766.00)

21. During the Application Period, Seyfarth expended 5.60 hours, worth a value of \$1,766.00 on behalf of the Trustee on matters of Case Administration which were primarily related to the preparation of the Trustee's Motion to Convert the Case and representing the Trustee at the Court hearing in connection therewith.

22. A breakdown of the professionals providing services in this category is as follows:

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
Gus A. Paloian	Partner	\$555.00	1.10	\$610.50
James B. Sowka	Associate	\$325.00	1.70	\$552.50
Jennifer M. McManus	Paralegal	\$235.00	2.30	\$540.50
Nina Bouchard	Paralegal	\$125.00	0.50	\$62.50

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
TOTAL:			5.60	\$1,766.00

INVESTIGATION AND PROSECUTION OF CLAIMS (1.10 HOURS VALUED AT \$610.50)

23. During the Application Period, Seyfarth expended 1.10 hours, worth a value of \$610.500, on behalf of the Trustee on matters of Investigation and Prosecution of Claims. In connection therewith, Seyfarth directed and worked with the Trustee's special counsel as to the prosecution of the Estate's claims against the Debtor's D&O insurance carrier.

24. A breakdown of the professionals providing services in this category is as follows:

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
Gus A. Paloian	Partner	\$555.00	1.10	\$610.50
TOTAL:			1.10	\$610.50

CLAIMS ADMINISTRATION AND ANALYSIS (9.60 HOURS VALUED AT \$2,997.00)

25. During the Application Period, Seyfarth expended 9.60 hours, worth a value of \$2,997.00, on behalf of the Trustee on matters of Claims Administration and Analysis including:

- A. Preparation of the Trustee's Motion to Establish a Claims Bar Date; and
- B. Advising the Trustee as to the publication of the bar date notice.

26. A breakdown of the professionals providing services in this category is as follows:

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
Gus A. Paloian	Partner	\$555.00	0.80	\$444.00
James B. Sowka	Associate	\$325.00	6.00	\$1,950.00
Jennifer M. McManus	Paralegal	\$235.00	2.30	\$540.50
Nina Bouchard	Paralegal	\$125.00	0.50	\$62.50
TOTAL:			9.60	\$2,997.00

CREDITOR INQUIRIES AND COMMUNICATIONS (1.50 HOURS VALUED AT \$280.50)

27. During the Application Period, Seyfarth expended 1.50 hours, worth a value of \$280.50 on behalf of the Trustee on matters of Creditor Inquiries and Communications, as requested by the Trustee. Specifically, Seyfarth communicated with various creditors of the Debtor, primarily former employees, regarding the status of the case, issues related to the conversion of the case and their claims.

28. A breakdown of the professionals providing services in this category is as follows:

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
James B. Sowka	Associate	\$325.00	0.30	\$97.50
Jennifer M. McManus	Paralegal	\$235.00	0.30	\$70.50
Nina Bouchard	Paralegal	\$125.00	0.90	\$112.50
TOTAL:			1.50	\$280.50

GENERAL LABOR MATTERS (3.10 HOURS VALUED AT \$1,444.00)

29. During the Application Period, Seyfarth expended 1.40 hours, worth a value of \$1,444.00 in representing the Trustee and the Estate on General Labor Matters. Seyfarth advised the Trustee as to the defense a wage violation claim pending before the Illinois Department of Labor (the “DOL Proceeding”) and against the Debtor and the potential for a stay of the DOL Proceeding as a result of the commencement of the Case. In addition, Seyfarth held conferences, participated in teleconferences and prepared communications to protect the Trustee’s interest in the DOL Proceeding.

30. A breakdown of the professionals providing services in this category is as follows:

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
Edward Bergmann	Partner	\$575.00	0.20	\$115.00
Gus A. Paloian	Partner	\$555.00	1.80	\$999.00
Benjamin Gehrt	Former Associate	\$300.00	1.10	\$330.00
TOTAL:			3.10	\$1,444.00

**INVESTIGATION OF ESTATE CLAIMS/ADVERSARY PROCEEDINGS/LITIGATION
(10.90 HOURS VALUED AT \$3,460.50)**

31. During the Application Period, Seyfarth expended 10.90 hours, with a value of \$3,460.50 on behalf of the Trustee in matters related to Investigation of Estate Claims/Adversary Proceedings/Litigation including:

- A. Conducting factual investigation into financial affairs of the Debtor and potential claims of the Estate;

- B. Conferences and teleconferences and/or correspondence regarding recovery of electronic data from various computers and servers of the Debtor; and
- C. Document review and analyzing of books and records recovered from the Debtor; forensic examination and review of electronic data.

32. A breakdown of the professionals providing services in this category is as follows:

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
Jason Priebe	Of Counsel	\$410.00	1.20	\$492.00
James B. Sowka	Associate	\$325.00	0.50	\$162.50
Richard Lutkus	Associate	\$305.00	9.20	\$2,806.00
TOTAL:			10.90	\$3,460.50

PROBATE MATTERS (7.70 HOURS VALUED AT \$2,115.50)

33. During the Application Period, Seyfarth expended 7.70 hours, with a value of \$2,115.50 in Probate Matters including:

- A. Conferences and teleconferences and/or correspondence regarding Estate's interest in pursuing claim in probate matter captioned, Estate of John A. Sheaffer, Case No. 09-P-628, pending in the Circuit Court of the 19th Judicial Circuit, Lake County (the "Probate Case");
- B. Representing the Trustee at a hearing in the Probate Case; and
- C. Preparing Trustee's claim for filing in the Probate Case and related affidavit in support.

34. A breakdown of the professionals providing services in this category is as follows:

PROFESSIONAL	TITLE	2010 HOURLY RATE	TOTAL HOURS	VALUE
M. Ryan Pinkston	Associate	\$295.00	5.10	\$1,504.50
Jennifer M. McManus	Paralegal	\$235.00	2.60	\$611.00
TOTAL:			7.70	\$2,115.50

D. Incurred Expenses

35. Seyfarth maintained records of all actual and necessary out-of-pocket expenses incurred in connection with rendering services to the Trustee. A complete listing of the Expenses and the amounts for which reimbursement is sought is attached hereto as **Exhibit 2** and which are incorporated herein by reference.

36. As set forth in attached **Exhibit 2**, Seyfarth advanced \$1,725.65 in Expenses on behalf of the Estate during the Application Period. Seyfarth submits that all of the Expenses are reasonable and were necessary in the discharge of Seyfarth's services as counsel to the Trustee.

37. A portion of the Expenses consists of in-house photocopying charges, which Seyfarth has voluntarily reduced to \$0.10 per page.

38. Additionally, Seyfarth advanced out-of-pocket expenses on behalf of the Estate for online legal research conducted through LEXIS and WESTLAW. The charges for these expenses are *actual and at cost*.

39. In this respect, there is no mark-up of the online legal research charges and no profit derived by Seyfarth from them. Seyfarth ordinarily and customarily passes its discount

on such services *through to the client*—in this instance, the Estate—billing the client only what Seyfarth is actually charged for use of the online resources.

40. The expenses for which Seyfarth seeks reimbursement are representative and typical of the types of expenses that Seyfarth ordinarily and customarily charges its non-bankruptcy clients. Such expenses are neither taken into consideration in determining, nor built as “overhead” into, Seyfarth’s hourly rates.

41. Instead, Seyfarth generally adheres to the so-called “user fee” billing system for out-of-pocket expenses—that is, Seyfarth charges expenses to the particular clients who use them, in this instance the Estate at cost.

V. RELIEF REQUESTED

42. Seyfarth respectfully requests that the Court: (i) allow and award it on a final basis (1) the Fees, consisting of \$18,030.50 for legal services rendered to the Trustee, and (2) the Expenses, in the amount of \$1,725.65, incurred in relation to such services; and (ii) authorize and direct the Trustee to make prompt payment of the Fees and Expenses to Seyfarth from the Estate.

43. In addition, Seyfarth requests that the amounts previously awarded and paid as interim compensation pursuant to the First Fee Application be deemed final.

44. A proposed order providing for the requested relief is attached hereto for the Court’s consideration.

VI. BASIS FOR THE REQUESTED RELIEF

A. Compensation Standards

45. Pursuant to Section 331 of the Bankruptcy Code, a professional person employed under Section 327 may generally apply for interim compensation from a bankruptcy court. See 11 U.S.C. § 331. Under Section 330(a)(1)(A), the Court may then award the professional

person “reasonable compensation for actual, necessary services rendered[.]” 11 U.S.C. § 330(a)(1)(A).

46. In determining the “extent and value of compensation,” this Court has endorsed and applied the “‘lodestar’ approach—multiplying the number of actual and necessary hours reasonably expended by a reasonable hourly rate[.]” In re Wildman, 72 B.R. 700, 712 (Bankr. N.D. Ill. 1987) (Schmetterer, J.); accord In re UNR Indus., Inc., 986 F.2d 207, 210-11 (7th Cir. 1993) (lodestar approach provides fair compensation under Section 330); see also City of Burlington v. Dague, 505 U.S. 557, 562, 112 S. Ct. 2638, 2641, 120 L. Ed. 2d 449 (1992) (“The ‘lodestar’ figure has, as its name suggests, become the guiding light of our fee-shifting jurisprudence. We have established a ‘strong presumption’ that the lodestar represents the ‘reasonable’ fee[.]”).

47. To arrive at an attorney’s reasonable hourly rate, the Seventh Circuit has “emphasize[d] that section 330 . . . *requires* lawyers in bankruptcy matters to receive the same compensation as they would earn in performing similar services outside the context of bankruptcy.”² In re UNR Indus., Inc., 986 F.2d at 210 (emphasis added). The statutory aim is twofold: (A) “that attorneys be reasonably compensated,” and (B) “that future attorneys not be deterred from taking bankruptcy cases due to a failure to pay adequate compensation.” UNR Indus., Inc., *supra*; see also In re Farley, Inc., 156 B.R. at 210 (“The purpose of § 330 was to encourage bankruptcy practitioners not to leave the field in favor of more lucrative areas of the law.”) (citing legislative history to Section 330).

48. As a cornerstone of this market rate approach, the Seventh Circuit has repeatedly “stressed that the best measure of the cost of an attorney’s time is what that attorney could earn

² “In section 330 and its legislative history Congress expressed its intent that compensation in bankruptcy matters be commensurate with the fees awarded for comparable services in non-bankruptcy cases.” In re UNR Indus., Inc., 986 F.2d at 208-09; see In re Farley, Inc., 156 B.R. 203, 210 (Bankr. N.D. Ill. 1993) (Schmetterer, J.) (quoting same).

from paying clients”—that is, the attorney’s “standard hourly rate.” Gusman v. Unisys Corp., 986 F.2d 1146, 1150 (7th Cir. 1993); see Small v. Richard Wolf Med. Instruments Corp., 264 F.3d 702, 707 (7th Cir. 2001) (“The attorney is entitled to his market rate and not some ‘medieval just price’ determined by the court.”) (quoting Steinlauf v. Continental Ill. Corp. (In re Continental Ill. Sec. Litig.), 962 F.2d 566, 568 (7th Cir. 1992)).

49. Therefore, the Seventh Circuit has mandated that an “attorney’s actual billing rate . . . is considered to be the presumptive market rate.” Small, 264 F.3d at 707. Moreover, “[t]he lawyer’s regular rate is *strongly presumed* to be the market rate for his or her services.” Moriarty v. Svec, 233 F.3d 955, 965 (7th Cir. 2000) (emphasis added), cert. denied, 532 U.S. 1066, 121 S. Ct. 2216, 150 L. Ed. 2d 209 (2001); see Moriarty v. Svec, 429 F.3d 710, 718 (7th Cir. 2005) (quoting same); see also Central States, S.E. & S.W. Areas Pension Fund v. Central Cartage Co., 76 F.3d 114, 116 (7th Cir.) (“[A] lawyer’s regular hourly fee, one counsel would charge ‘to the meanest villain’, is the market rate for that lawyer’s services.”) (emphasis added and quoting Barrow v. Falck, 977 F.2d 1100, 1106 (7th Cir. 1992)), cert. denied sub nom. Mason & Dixon Lines v. Central States, S.E. & S.W. Areas Pension Fund, 519 U.S. 811, 117 S. Ct. 56, 136 L. Ed. 2d 19 (1996).

50. Under this principle, “lawyers who fetch above-average rates are presumptively entitled to them, rather than to some rate devised by the court.” Gusman, 986 F.2d at 1150; accord In re Spanjer Bros., Inc., 191 B.R. 738, 755 (Bankr. N.D. Ill. 1996) (Squires, J.) (“Generally, so long as the rates being charged are the applicant’s normal rates charged in bankruptcy and non-bankruptcy matters alike, they will be afforded a presumption of reasonableness.”).

51. “Only if an attorney is unable to provide evidence of her actual billing rates should a [] court look to other evidence, including ‘rates similar experienced attorneys in the community charge paying clients for similar work.’” Mathur v. Board of Trs. of S. Ill. Univ.,

317 F.3d 738, 743 (7th Cir. 2003) (quoting Spegon v. Catholic Bishop of Chicago, 175 F.3d 544, 555 (7th Cir. 1999)); see also Gusman, 986 F.2d at 1151 (“the ability to identify a different average rate in the community” is an impermissible reason to depart from an attorney’s billing rate).

52. Accordingly, because Seyfarth bills the vast majority of its time at a set rate for paying clients and spends only a very small percentage of time on cases covered by fee-shifting statutes, “there is a strong presumption that such counsel could have billed out remaining time at the rate normally charged.” In re Farley, Inc., 156 B.R. at 211.

53. Additionally, under generally accepted standards, if the services of an attorney employed under Section 327 are reasonably likely to benefit a debtor’s estate, they should be compensable. See Andrews & Kurth L.L.P. v. Family Snacks, Inc. (In re Pro-Snax Distributors, Inc.), 157 F.3d 414, 421 (5th Cir. 1998); In re Ames Dep’t Stores, Inc., 76 F.3d 66, 71 (2d Cir. 1996); 2 Lawrence P. King, Collier on Bankruptcy ¶ 330.04 at 330-43 (15th ed. rev. 1999); cf. 11 U.S.C. § 330(a)(4)(A)(ii)(I). In this same context, “[n]ecessary services are those that aid the professional’s client in fulfilling its duties under the Code.” In re Ben Franklin Retail Store, Inc., 227 B.R. 268, 270 (Bankr. N.D. Ill. 1998) (Barliant, J.).

54. Thus, the determination of benefit to the Estate is not constrained to a dollar-for-dollar measurement, such that each dollar’s worth of legal services must bring a cash dollar into the Estate in order to justify equivalent compensation to counsel. See In re Lifschultz Fast Freight, Inc., 140 B.R. 482, 488 (Bankr. N.D. Ill. 1992) (Barliant, J.) (“Necessary services have always included services that aid in the administration of the case and help the client fulfill duties under bankruptcy law, whether or not those services result in a monetary benefit to the estate.”); accord In re Rite Way Reproductions, Inc., 1998 Bankr. LEXIS 1080, at *6-*7 (Bankr. N.D. Ill. Aug. 27, 1998) (Squires, J.) (concurring and further observing that “factors other than the economic impact on the estate of actions taken should be considered in the

‘benefit to the estate’ analysis”); In re Caribou P’ship III, 152 B.R. 733, 742 (Bankr. N.D. Ind. 1993) (same); see, e.g., Ben Franklin Retail Store, Inc., supra (“[A] trustee (or interim trustee) performs necessary services when he carries out the duties set forth in § 704 of the Code.”); JMP-Newcor Int’l, Inc. v. Seyfarth, Shaw, Fairweather & Geraldson (In re JMP-Newcor Int’l, Inc.), 1998 U.S. Dist. LEXIS 987, at *13 (N.D. Ill. Jan. 23, 1998) (affirming bankruptcy court’s award of fees to firm for advising committee in reasonable way and in good faith despite lack of direct monetary benefit to debtor and estate).

55. Instead, other factors, such as “whether the services rendered promoted the bankruptcy process or administration of the estate in accordance with the practice and procedures provided under the Bankruptcy Code and Rules for the orderly and prompt disposition of bankruptcy case and related adversary proceedings,” also support awards of compensation. In re Spanjer Bros., Inc., 191 B.R. at 748.

56. As previously stated, the legal services for which Seyfarth requests allowance and payment of compensation relate to the Application Period, and were rendered in connection with the Case and in the discharge of Seyfarth’s professional responsibilities as counsel to the Trustee during that time.

57. Seyfarth respectfully submits that such legal services have, in all respects, been reasonable, necessary, and beneficial to the Estate. In this connection, these services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the matters which they concerned.

58. Further, they promoted the bankruptcy process and the administration of the Estate and supported the Trustee in fulfilling his statutory duties, all in accordance with the Bankruptcy Code and Rules.

59. For purposes of this Application, Seyfarth has computed the Fees on the basis of its discounted hourly rates applicable to the performance of bankruptcy legal services unrelated to the Case at the time that such services were rendered.

60. Seyfarth's average hourly billing rate for its attorneys—that is, its “lodestar” rate—during the Application Period was \$374.42.

61. During the Application Period, Seyfarth's discounted hourly billing rates for professionals providing services in the Case ranged from: (A) \$295.00 to \$575.00 for attorneys, and (B) \$125.00 to \$235.00 for paralegals or para-professionals. Based upon all of the foregoing, Seyfarth respectfully submits that the fair and reasonable value of the legal services that it rendered during the Application Period is \$18,030.50.

62. In all these respects, the compensation which Seyfarth has requested herein is reasonable based upon the customary compensation charged by comparably-skilled practitioners in either non-bankruptcy or bankruptcy cases.

63. Moreover, it is less than the fees which Seyfarth would have received for providing legal services to its non-bankruptcy clients, and thus represents even less than its lost opportunity costs for such non-bankruptcy services because Seyfarth's acceptance of employment by the Trustee in the Case precluded such employment.

64. In rendering legal services to the Trustee, and in making this Application, Seyfarth respectfully submits that it has exercised its good faith billing judgment, and has not sought compensation for “excessive, redundant, or otherwise unnecessary” time. Hensley v. Eckerhart, 461 U.S. 424, 434, 103 S. Ct. 1933, 1939-40, 76 L. Ed. 2d 40 (1983).

65. Finally, and with respect to new considerations added to the Bankruptcy Code under BAPCPA—that is, the new “relevant factor” of whether a professional “is board certified or otherwise has demonstrated skill and experience in the bankruptcy field,” 11 U.S.C. § 330(a)(3)(E) (2006)—Seyfarth's Attorney Biographical Information is attached to the

First Application at Exhibit 1. The Attorney Biographical Information sets forth the qualifications of the Seyfarth attorneys listed herein, including their demonstrated skill and experience in the bankruptcy field, both in the local Chicago market and in representation of clients in matters nationwide.

B. Expense Reimbursement Standards

66. With respect to reimbursing expenses, the Court may award a professional person “reimbursement for actual, necessary expenses.” 11 U.S.C. § 330(a)(1)(B).

67. “An expense is necessary if it was incurred because it was required to accomplish the proper representation of the client.” *In re Spanjer Bros., Inc.*, 191 B.R. at 749; *see In re Wildman*, 72 B.R. at 731.

68. In this connection, Seyfarth has requested reimbursement only for actual and necessary expenses incurred on the Trustee’s behalf. Seyfarth respectfully submits that these expenses were incurred because they were required to accomplish the proper representation of the Trustee and the furtherance of the Estate’s interests in the Case. As previously indicated, Seyfarth voluntarily reduced and limited its costs for photocopy expenses.

69. Seyfarth submits that the Expenses are reimbursable and do not constitute “overhead,” which the Court discussed and described, as follows:

Expenses which are overhead are not compensable because they are not built into the normal hourly rate charged by the billing professional. *Convent Guardian*, 103 Bankr. at 939; *Wildman*, 72 Bankr. at 731. Overhead expenses include “all continuous administrative or general costs or expenses incident to the operation of the firm which cannot be attributed to a particular client or cost.” *In re Thacker*, 48 Bankr. 161, 164 (Bankr. N.D. Ill. 1985) (quoting *Jensen-Farley Pictures*, 47 Bankr. at 584)³.

³ *In re GSB Liquidating Corp.*, 1995 Bankr. LEXIS 1245, at *41 (Bankr. N.D. Ill. Aug. 21, 1995) (Squires, J.); *see In re Adventist Living Ctrs., Inc.*, 137 B.R. 701, 719 (Bankr. N.D. Ill. 1991) (Sonderby, J.) (“Expenses which are overhead and which are included in the hourly rate are not compensable.”); *see also* 2 Lawrence P. King, *Collier on Bankruptcy* ¶ 330.05 at 3-330 (15th ed. rev. LEXIS 2006) (“Nonreimbursable overhead has been defined as regular administrative and general expenses incident to the operation of a business that cannot be attributed to a particular client or cost.”); *see, e.g., Stroock & Stroock & Lavan v. Hillsborough Holdings Corp. (In re Hillsborough Holdings Corp.)*, 127 F.3d 1398, 1402 (11th Cir. 1997) (“We accept that true ‘overhead’ costs—the ordinary operating costs of a firm, *such*

70. In contrast, Seyfarth charges for its out-of-pocket expenses only, including the incurred Expenses, to the particular clients who use them—in this instance, the Estate. As previously discussed, the incurred Expenses included herein are neither taken into consideration in determining, nor built as “overhead” into, Seyfarth’s hourly rates.

71. Such “user fee” expense billing closely adheres to the Seventh Circuit’s market rate billing approach. In this respect, the Seventh Circuit’s market approach to compensation extends equally to the reimbursement of expenses, including those for online research. See In re Hunt’s Health Care, Inc., 161 B.R. 971, 978 (Bankr. N.D. Ind. 1993); accord In re Hillsborough Holdings Corp., 127 F.3d at 1403-04 (“[I]f the cost of comparable services is a relevant factor in setting compensation for services under [330](a)(1), it would logically seem also to be a relevant factor in determining what categories to treat as reimbursable expenses under (a)(2).”).

72. For example, in Continental Illinois Securities, supra, the Seventh Circuit reversed, and markedly criticized, the district court for disallowing online research expenses:

The judge refused to allow the lawyers to bill any of their out-of-pocket expenses of using a computerized legal research service (LEXIS). He thought those expenses should be part of the lawyers’ overhead. This was another clear error. If computerized research expenses were customarily treated in this fashion, lawyers’ hourly rates would be even higher than they are, requiring an adjustment in the lodestar. *But the more important point is that the market—the paying, arms’ length market—reimburses lawyers’ LEXIS and WESTLAW expenses, just as it reimburses their paralegal expenses, rather than requiring that these items be folded into overhead.* Markets know market values better than judges do. And as with paralegals, so with computerized research: if reimbursement at market rates is disallowed, the effect will be to induce lawyers to substitute their own, more expensive time for that of the paralegal or the computer, 962 F.2d at 570 (emphasis added); accord Harman v. Lyphomed, Inc., 945 F.2d 969, 976 (7th Cir. 1991) (“The attorneys also claim that the court erred in excluding the roughly \$10,000 expended in computer-assisted research. The court felt that the expense ‘is

as rent, heat, and the like, that cannot readily be attributed to a particular case—are not separately compensable as reimbursable expenses.”) (emphasis added)

part of the amount allowed for attorney's fees.' *We must reverse the district court here.* Computer-assisted research fees—so long as reasonably incurred—in theory reduce the number of attorney hours otherwise needed for (presumably) more time-consuming manual research and are therefore compensable[. . . as] expenses[.]” (emphasis added).

73. The Seventh Circuit has remained consistent on this subject and has repeatedly required attorney reimbursement for computerized legal research charges. See, e.g., Uniroyal Goodrich Tire Co. v. Mutual Trading Corp., 63 F.3d 516, 526 (7th Cir. 1995) (“Before we turn our attention to the award of costs, we consider MTC’s request that the costs of computerized legal research be subtracted from the award. *MTC claims that these expenses are better characterized as overhead in the same way that maintenance of a law firm library is. We reject this claim.*”) (emphasis added), cert. denied, 516 U.S. 1115, 116 S. Ct. 916, 133 L. Ed. 2d 846 (1996).

74. Accordingly, lower courts in this District—including numerous judges of this Court—have adhered to this controlling precedent. See, e.g., Shula v. Lawent, 2004 U.S. Dist. LEXIS 17662, at *7-*8 (N.D. Ill. Sept. 2, 2004) (Keys, J.) (fully allowing “computerized legal research charges” as “costs” that were “both reasonable and necessary”); Stamm v. Provident Life & Accident Ins. Co., 2000 U.S. Dist. LEXIS 5521, at *6 (N.D. Ill. Apr. 7, 2000) (Plunkett, J.) (“The Seventh Circuit has held that computerized legal research is reimbursable as a reasonable expense of litigation.”); In re Price, 143 B.R. 190, 199 (Bankr. N.D. Ill. 1992) (Squires, J.) (allowing full reimbursement of Lexis expense), aff’d sub nom. Price v. United States (In re Price), 42 F.3d 1068 (7th Cir. 1994); In re Met-L-Wood Corp., 103 B.R. 972, 977 (Bankr. N.D. Ill. 1989) (Coar, J.) (allowing full reimbursement of computer research charges as “‘actual and necessary’ expenses”), aff’d, 115 B.R. 133 (N.D. Ill. 1990); In re Prairie Cent. Ry. Co., 87 B.R. 952, 960 (Bankr. N.D. Ill. 1988) (Squires, J.) (following earlier opinions of the Court to allow reimbursement of Lexis and Westlaw research charges); In re Wildman, 72 B.R. at 732 (“This Court adopts the view that computer research time that is both necessary

and attributable to a particular client *or* case is reimbursable under Section 330(a)(2).”) (emphasis in the original); In re UAL Corp., Case No. 02-48191-ERW (Wedoff, C.J.), *Order Approving Quarterly Application Of Vedder, Price, Kaufman & Kammholz, P.C. For Allowance And Payment Of Compensation And Reimbursement Of Expenses* (Docket No. 15670) (allowing full reimbursement of \$8,085.93 in online legal research charges); In re Eagle Food Centers, Inc., Case No. 03-15299-CAD (Doyle, J.), *Order Approving Third And Final Application Of Skadden, Arps, Slate, Meagher & Flom LLP Seeking Final Allowance And Payment Of Compensation And Reimbursement Of Expenses* (Docket No. 1136) (allowing full expense reimbursement of \$21,888 in “Computer Legal Research” during case period) (unpublished decision); In re Conseco, Inc., Case No. 02-49672-CAD (Doyle, J.), *Order Approving Final Application Of Jenner & Block LLP For Allowance Of Administrative Claim For Compensation And Reimbursement Of Expenses* (Docket No. 6987) (allowing expense reimbursement of \$139,934.07, including Westlaw and Lexis charges); In re Wickes, Inc., Case No. 04-02221-BWB (Black, J.), *Findings Of Fact And Conclusions Of Law In Support Of Order Awarding To DLA Piper Rudnick Gray Cary US LLP, Attorneys For Wickes, Inc., For Allowance And Payment Of Interim Compensation And Reimbursement Of Expenses* (Docket No. 2935) (allowing expense reimbursement of \$15,505.32, including Westlaw and Lexis charges).

75. Finally, in seeking reimbursement for such costs, the Seventh Circuit has laid down guidelines, and cautioned, that an applicant “[is] not required to submit a bill of costs containing a description so detailed as to make it impossible economically to recover [] costs[, but] [r]ather [] [is] required to provide the best breakdown obtainable from retained records.” Northbrook Excess & Surplus Ins. Co. v. Procter & Gamble Co., 924 F.2d 633, 643 (7th Cir. 1991).

76. In seeking reimbursement for the Expenses herein, Seyfarth has made every attempt to fully comply with these dictates.

VII. NOTICE

77. Twenty-one days' notice of this Application, and service of the Application, has been provided to the Office of the United States Trustee, in care of M. Gretchen Silver, Esq.

78. Pursuant to Bankruptcy Rule 2002(a)(2) and (a)(6), and due to the expense that would be incurred by the Estate in serving this Application upon all creditors in the Case, Seyfarth respectfully submits that sufficient cause exists to limit mail service of: (i) the Application to the parties on the Special Service List, and (ii) the Notice of Application to the General Service List, in both regards considering that all other entities requesting notices in the Case will receive notice of, and access to, the Application via CM/ECF.

79. Seyfarth respectfully requests that the above-notice (the "Notice") be deemed adequate and that the Court find that no other or further notice is necessary.

VIII. NO PRIOR REQUEST

80. No prior request for the relief requested by this Application has been made to this Court or to any other court.

WHEREFORE Seyfarth Shaw LLP respectfully requests that the Court enter an Order:

- A. Finding Notice of the Application sufficient as given and that no other or further notice is necessary;
- B. Allowing and awarding Seyfarth on a final basis the Fees and Expenses;
- C. Authorizing the Chapter 7 Trustee to make payment of such Fees and Expenses to Seyfarth from the Estate;

- D. Allowing Seyfarth all previous monies awarded and paid to Seyfarth as interim fee and expense reimbursement as counsel to the Trustee to be deemed final; and
- E. Granting such other and further relief as this Court deems just and appropriate.

Dated: October 12, 2011

Respectfully submitted,

SEYFARTH, SHAW, LLP, counsel to
GUS A. PALOIAN, not individually or
personally, but solely in his capacity as the
former Chapter 11 Trustee of the Debtor's
Estate,

By: /s/ James B. Sowka

Gus A. Paloian (06188186)

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Gus A. Paloian*